



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action
Agency Background Document

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-700
Regulation Title:	Child Protective Services Central Registry Information
Action Title:	Conforming Amendments
Date:	February 1, 2002

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

Enter Statement Here Amendments are necessary to this regulation to ensure that 22 VAC 40-705-10 et seq. is consistent with the regulation entitled Child Protective Services (22 VAC 40-705-10 et seq.), which requires "Preponderance of the Evidence" for Founded Disposition; and to ensure consistency with the Virginia Court of Appeals decision of *Jackson v. Marshall*. That court decision determined that only categories of "Founded" and "Unfounded" are allowed under *Code of Virginia* Section 63.1-248. The Department officially ceased use of the "Reason to Suspect" category on March 9, 1995, as a result of this court decision, and purged all such findings from the Central Registry. This action is requested as the result of an approved Executive Order 25 regulation review that requires a review of all existing agency regulations.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Enter Statement Here Code of Virginia Sections 63.1-25 and 63.1-248.1, et seq. provide statutory authority to the State Board of Social Services to promulgate the regulation regarding the Central Registry. With amendments, this regulation will not exceed the scope of the mandate.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

Enter Statement Here Such persons whose name may be in the Central Registry may not be allowed to be employed in the day-to-day operations of a child welfare agency. Section 63.1-195 of the Code of Virginia defines child welfare agencies as a child day center, child day center system, child-placing agency, child caring institution, family day home, family day system, or independent foster home. Identification of individuals with a history of child abuse/neglect prior to employment in a child welfare agency would reduce the opportunities for such individuals to abuse additional children, and may make the children in Virginia’s families safer. When there is a history of child abuse or neglect for a given caretaker, or a given victim child, and that history is made known to child protective services workers when conducting future investigations involving the same individuals, much more prudent decisions can be made to ensure the safety of all involved victim children.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Enter Statement Here Since the last review of this particular regulation in 1995, there were two extensive reviews completed of the entire child protective services program, which included looking at the Central Registry: (1) a legislative subcommittee fulfilling House Joint Resolution 502, and (2) the State Board of Social Services subcommittee on child protective services. Although many recommendations were made as a result of

these reviews, including new CPS regulations, neither of these reviews produced a recommendation to change the Central Registry regulation.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Enter Statement Here This regulation tracks individuals who have abused or neglected a child. Any person who is determined by child protective services to have committed an act of child abuse or neglect in Virginia, and any child determined to be a victim of same, may have information about his identity and about the abuse/neglect maintained in the Central Registry for a time period established in the regulation. Such persons may include parents (birth, step, foster or adoptive), other family members, childcare providers, teachers and anyone else determined to have been acting in a caretaker role when the abuse/neglect occurred. Central Registry searches (for other than a CPS investigation) cannot be conducted unless the individual being searched has authorized the search or a court has ordered the search. Such persons whose name may be in the Central Registry may not be allowed to be employed in the day-to-day operations of a child welfare agency. Section 63.1-195 of the *Code of Virginia* defines child welfare agencies as a child day center, child day center system, child-placing agency, child caring institution, family day home, family day system, or independent foster home. Identification of individuals with a history of child abuse/neglect prior to employment in a child welfare agency would reduce the opportunities for such individuals to abuse additional children, and may make the children in Virginia's families safer. When there is a history of child abuse or neglect for a given caretaker, or a given victim child, and that history is made known to child protective services workers when conducting future investigations involving the same individuals, much more prudent decisions can be made to ensure the safety of all involved victim children.